

JANICE MCCOY

MAY 16, 2012

<p style="text-align: center;">45</p> <p>1 Q. And did you have a role in that?</p> <p>2 A. I did.</p> <p>3 Q. Do you know what the purpose of including two</p> <p>4 forms of nonphoto ID in HB 218 was?</p> <p>5 MR. FREDERICK: I'll make the same</p> <p>6 objection.</p> <p>7 But I think she's just asking just a</p> <p>8 yes-or-no question, so you may answer whether or not you</p> <p>9 know.</p> <p>10 A. I was not part of how House Bill developed in</p> <p>11 the House. My personal belief is that they included two</p> <p>12 forms of voter ID in order to get the necessary votes to</p> <p>13 move it out of the House.</p> <p>14 Q. Okay.</p> <p>15 MS. MARAZANO: And just to clarify the</p> <p>16 record, it's my understanding that Mr. Sweeten has</p> <p>17 actually alerted the court that you all are going to</p> <p>18 allow witnesses to answer questions about legislative</p> <p>19 purpose. I missed the e-mail, but that's my</p> <p>20 understanding of what has happened, so...</p> <p>21 MR. FREDERICK: No. Consistent, I think,</p> <p>22 with what we have tried to convey yesterday and today,</p> <p>23 we will permit testimony about legislative purpose to</p> <p>24 the extent that is available from nonprivileged sources.</p> <p>25 MS. MARAZANO: Okay. This might be</p>	<p style="text-align: center;">47</p> <p>1 being asserted?</p> <p>2 A. Yes.</p> <p>3 Q. Did you have any conversations with</p> <p>4 constituents about HB 218?</p> <p>5 A. Yes.</p> <p>6 Q. How many?</p> <p>7 A. How many conversations or how many</p> <p>8 constituents? Sorry.</p> <p>9 Q. That's an important distinction. Let's start</p> <p>10 with how many constituents.</p> <p>11 A. Verbally, I probably spoke to five to ten</p> <p>12 constituents.</p> <p>13 Q. Did you speak to any of these constituents on</p> <p>14 multiple occasions?</p> <p>15 A. Yes.</p> <p>16 Q. About how many did you speak to on multiple</p> <p>17 occasions?</p> <p>18 A. How many constituents?</p> <p>19 Q. Uh-huh.</p> <p>20 A. One.</p> <p>21 Q. And was this a conversation on the phone? In</p> <p>22 person? In another means?</p> <p>23 A. Most of the time, the conversations with this</p> <p>24 one constituent were in person.</p> <p>25 Q. Have -- I'm sorry.</p>
<p style="text-align: center;">46</p> <p>1 something that we discuss with the court later.</p> <p>2 Q. (By Ms. Maranzano) Did Senator Fraser have any</p> <p>3 role in the development of HB 218?</p> <p>4 A. No.</p> <p>5 Q. Did the Senator take a public position on HB</p> <p>6 218?</p> <p>7 A. Yes.</p> <p>8 Q. What position was that?</p> <p>9 A. In favor.</p> <p>10 Q. Did you play any role with regard to advising</p> <p>11 the Senator on that position?</p> <p>12 A. Yes.</p> <p>13 Q. Did you recommend that he support the bill?</p> <p>14 A. Yes.</p> <p>15 Q. And what was that recommendation based upon?</p> <p>16 MR. FREDERICK: Object to the extent the</p> <p>17 question calls for thoughts and mental impressions about</p> <p>18 pending legislation or asks for the substance of</p> <p>19 communications of legislators' staff, state agencies,</p> <p>20 TLC and constituents, I will instruct you not to</p> <p>21 answer. If you can answer without relying on that</p> <p>22 material, you may do so.</p> <p>23 A. I cannot answer.</p> <p>24 Q. (By Ms. Maranzano) Okay. And just so we have a</p> <p>25 clear record, you cannot answer because of the privilege</p>	<p style="text-align: center;">48</p> <p>1 A. Otherwise, I might have spoken to him once or</p> <p>2 twice on the phone.</p> <p>3 Q. Was anybody else party to the conversations</p> <p>4 that occurred in person?</p> <p>5 A. The Senator may or may not have been part of</p> <p>6 the conversations. I don't remember 2007 very well.</p> <p>7 Q. Does the Senator meet with any constituent who</p> <p>8 comes to his office if he's in the office?</p> <p>9 A. If the Senator is in the office, in a meeting</p> <p>10 or on the phone, he will visit with constituents.</p> <p>11 Q. Do you recall if he met with anybody, any</p> <p>12 constituent about HB 218?</p> <p>13 A. The same constituents that I met with on</p> <p>14 several occasions, I think the Senator met with.</p> <p>15 Q. Who was this constituent?</p> <p>16 A. Skipper Wallace.</p> <p>17 Q. Why was he particularly interested in HB 218?</p> <p>18 MR. FREDERICK: Object to the extent that</p> <p>19 calls for the substance of communications with a</p> <p>20 constituent or a legislator or staff for the thoughts</p> <p>21 and mental impressions about pending legislation; I</p> <p>22 instruct you not to answer.</p> <p>23 A. I can't answer because of privilege.</p> <p>24 Q. (By Ms. Maranzano) Did these conversations all</p> <p>25 take place in the Senator's office?</p>

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<p style="text-align: center;">49</p> <p>1 A. I don't remember, but probably, yes. By</p> <p>2 "office," you mean our general office because I have a</p> <p>3 -- so there's three rooms, so in that space?</p> <p>4 Q. In Senator Fraser's office complex --</p> <p>5 A. Yes. Okay. Right.</p> <p>6 Q. -- in the Capitol.</p> <p>7 A. Okay.</p> <p>8 Q. Okay. Thank you for clarifying that.</p> <p>9 Did either you or the Senator ask</p> <p>10 Mr. Wallace to comment, to speak about HB 218?</p> <p>11 A. No. Are we still talking about 2007?</p> <p>12 Q. We're still talking about 2007 right now.</p> <p>13 A. Thank you. No.</p> <p>14 Q. We'll get to the other bills at some point.</p> <p>15 What was the nature of your conversation</p> <p>16 with Mr. Wallace?</p> <p>17 MR. FREDERICK: I'll object and instruct</p> <p>18 you not to answer to the extent that you would reveal</p> <p>19 the substance of the conversation. You may testify as</p> <p>20 to the general subject matter only, and to the extent</p> <p>21 you can do that, you may answer. Otherwise, I instruct</p> <p>22 you not to answer the question.</p> <p>23 Q. (By Ms. Maranzano) And are you going to --</p> <p>24 A. I'm going to assert privilege.</p> <p>25 Q. All right.</p>	<p style="text-align: center;">51</p> <p>1 conversations or e-mails or other written</p> <p>2 communications?</p> <p>3 A. I would assume in 2007, most of our</p> <p>4 conversations were verbal, either on the phone or in</p> <p>5 person.</p> <p>6 Q. Did Senator Fraser have any communications with</p> <p>7 the Executive Branch about HB 218?</p> <p>8 A. I don't know.</p> <p>9 Q. Did you communicate with any interest groups or</p> <p>10 lobbyists about HB 218?</p> <p>11 A. I don't remember.</p> <p>12 Q. Did you communicate with any election officials</p> <p>13 about HB 218?</p> <p>14 A. Election officials outside of the Secretary of</p> <p>15 State's Office?</p> <p>16 Q. Yes, that's right. NonExecutive Branch</p> <p>17 election officials.</p> <p>18 A. Yes.</p> <p>19 Q. Who did you communicate with?</p> <p>20 A. Well, Skipper as County Chair. I think that I</p> <p>21 also spoke with the Republican Party of Texas.</p> <p>22 Q. How many times did you speak with the</p> <p>23 Republican Party of Texas?</p> <p>24 A. Probably once.</p> <p>25 Q. Who from the Republican Party of Texas did you</p>
<p style="text-align: center;">50</p> <p>1 MS. MARANZANO: So that I'm clear,</p> <p>2 Mr. Frederick, is your position that unsolicited</p> <p>3 conversations with constituents are also covered by</p> <p>4 privilege?</p> <p>5 MR. FREDERICK: Yes.</p> <p>6 Q. (By Ms. Maranzano) Did you or Senator Fraser</p> <p>7 communicate with any members of the Executive Branch</p> <p>8 about HB 218?</p> <p>9 A. I don't remember. I'm sorry. I'm probably</p> <p>10 sure that I talked to Ann McGeehan in the Secretary of</p> <p>11 State's Office. Other than that, I don't remember.</p> <p>12 Q. What did you talk to Ann McGeehan about?</p> <p>13 MR. FREDERICK: I'll object again, and</p> <p>14 instruct you not to answer to the extent it requires you</p> <p>15 to disclose the substance of your conversation with</p> <p>16 Ms. McGeehan about pending or proposed legislation. To</p> <p>17 the extent you can answer by giving the general subject</p> <p>18 matter, you may do so.</p> <p>19 A. Generally, I'm sure you've heard Ann. Ann was</p> <p>20 responsible for the Elections Division. Generally, we</p> <p>21 spoke of how they would implement the bill.</p> <p>22 Q. (By Ms. Maranzano) About how many times did you</p> <p>23 speak with Ms. McGeehan?</p> <p>24 A. I don't remember.</p> <p>25 Q. Do you remember whether those were</p>	<p style="text-align: center;">52</p> <p>1 speak with?</p> <p>2 A. I don't know.</p> <p>3 Q. Was that an in-person conversation or a</p> <p>4 conversation by phone, e-mail?</p> <p>5 A. Most likely, it was by phone.</p> <p>6 Q. And when was that?</p> <p>7 A. It was sometime in May, April May of 2009.</p> <p>8 2007. I'm sorry.</p> <p>9 Q. Anyone else a party to that conversation?</p> <p>10 A. No.</p> <p>11 Q. Did the Republican Party of Texas also speak to</p> <p>12 Senator Fraser about HB 218?</p> <p>13 A. No.</p> <p>14 Q. And how do you know that?</p> <p>15 A. Because the Senator doesn't speak to the</p> <p>16 Republican Party of Texas. I do.</p> <p>17 Q. What was the nature of your conversation with</p> <p>18 the Republican Party of Texas?</p> <p>19 A. I might have been asking about witnesses and</p> <p>20 testifying and just generally about the bill.</p> <p>21 Q. When you say witnesses and testifying, are you</p> <p>22 talking about for --</p> <p>23 A. For the State Affairs Committee.</p> <p>24 Q. Did you talk to the Republican Party of Texas</p> <p>25 about the substance of HB 218?</p>

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<p style="text-align: center;">53</p> <p>1 A. I don't remember. I don't think so, but I</p> <p>2 don't remember.</p> <p>3 Q. Did you have any communications or -- well, let</p> <p>4 me: Are there any other election officials that you</p> <p>5 spoke with about HB 218?</p> <p>6 A. Not that I know of.</p> <p>7 Q. Did you have any conversations with any groups</p> <p>8 representing minority voters about HB 218?</p> <p>9 A. I don't remember.</p> <p>10 Q. Did you have any conversations with the</p> <p>11 Lieutenant Governor's Office about HB 218?</p> <p>12 A. Yes.</p> <p>13 Q. How many?</p> <p>14 A. I don't remember. A dozen, two dozen.</p> <p>15 Q. Who did you have those conversations with?</p> <p>16 A. His executive staff, Julia Rathgeber. I'm</p> <p>17 trying to remember if Blaine Brunson was chief of staff</p> <p>18 then or not. I can't remember if Blaine was or not.</p> <p>19 And then whoever staffed State Affairs for Lieutenant</p> <p>20 Governor, and I don't know who was at the time, either.</p> <p>21 Q. Did you say his executive staff? Is that what</p> <p>22 you said initially?</p> <p>23 A. Yeah.</p> <p>24 Q. Does he have --</p> <p>25 A. Well -- go ahead.</p>	<p style="text-align: center;">55</p> <p>1 MR. FREDERICK: I'll give you the same</p> <p>2 instruction. I instruct you not to answer to the extent</p> <p>3 that it would reveal thoughts and mental impressions</p> <p>4 about pending legislation or the substance of</p> <p>5 conversations between you and Senator Fraser or members</p> <p>6 of the Lieutenant Governor's staff or the Lieutenant</p> <p>7 Governor. But to the extent you can identify the</p> <p>8 subject matter without revealing the substance of the</p> <p>9 conversations, you may answer the question.</p> <p>10 Q. (By Ms. Maranzano) Can you answer?</p> <p>11 A. I'm trying to decide if I can.</p> <p>12 Q. Okay.</p> <p>13 A. We generally spoke about the process of moving</p> <p>14 the bill in the Senate.</p> <p>15 Q. Did you have any discussions with anyone in the</p> <p>16 Lieutenant Governor's Office about the impact of HB 218</p> <p>17 on minority voters?</p> <p>18 A. No.</p> <p>19 Q. Did you have conversations with anybody about</p> <p>20 the impact of HB 218 on minority voters?</p> <p>21 A. I don't remember.</p> <p>22 Q. Do you keep any record of meetings that you</p> <p>23 have?</p> <p>24 A. No.</p> <p>25 Q. None?</p>
<p style="text-align: center;">54</p> <p>1 Q. I was going to ask: Does he have an executive</p> <p>2 staff that's distinguishable from legislative staff?</p> <p>3 A. No. I said executive staff because there's</p> <p>4 like three or four people that sit upstairs with him. I</p> <p>5 just classified them that way.</p> <p>6 Q. Okay. So you believe that you spoke with Julia</p> <p>7 Rathgeber potentially?</p> <p>8 A. It's Rathgeber.</p> <p>9 Q. And you said Blain Brunson possibly?</p> <p>10 A. If he was chief of staff in 2007, then, yes.</p> <p>11 Q. And potentially whoever was staffing his State</p> <p>12 Affairs issues?</p> <p>13 A. Uh-huh.</p> <p>14 Q. And when were these conversations?</p> <p>15 A. I would have to look at the record of when the</p> <p>16 bill made it to the Senate. April, May time frame of</p> <p>17 2007.</p> <p>18 Q. Were these conversations in person, over the</p> <p>19 phone, e-mail? How did you communicate with the</p> <p>20 Lieutenant Governor's Office?</p> <p>21 A. Primarily in person.</p> <p>22 Q. Were they in the Capitol offices?</p> <p>23 A. Yes.</p> <p>24 Q. What was the nature of your conversations with</p> <p>25 Lieutenant Governor's staff?</p>	<p style="text-align: center;">56</p> <p>1 A. Not from 2007.</p> <p>2 Q. How about from 2009?</p> <p>3 A. No.</p> <p>4 Q. How about from 2011?</p> <p>5 A. There might be some stuff on my calendar from</p> <p>6 2011.</p> <p>7 Q. Do you keep any record of meetings or</p> <p>8 conversations the Senator has?</p> <p>9 A. No.</p> <p>10 Q. Does the Senator keep such a record?</p> <p>11 A. Of meetings that he's had in the past, only to</p> <p>12 the extent that his calendar is stored electronically,</p> <p>13 and if that meeting made it to the calendar.</p> <p>14 Q. Who keeps that calendar in your office? Does</p> <p>15 the Senator keep his own calendar?</p> <p>16 A. The scheduler.</p> <p>17 Q. Did you turn that calendar over to counsel?</p> <p>18 A. No, I didn't. I'm sorry.</p> <p>19 Q. Do you believe that's responsive to the</p> <p>20 requests that were propounded on your office?</p> <p>21 A. I suppose not.</p> <p>22 Q. You don't believe that was?</p> <p>23 A. Well, I mean, I guess if -- I didn't search the</p> <p>24 calendar. So then the answer is no, it was not</p> <p>25 responsive.</p>

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<p style="text-align: center;">57</p> <p>1 Q. Am I understanding that you didn't turn -- you</p> <p>2 didn't search it because it was --</p> <p>3 A. I forgot to search it. And so now that you've</p> <p>4 brought it up, it's not responsive, and I can search for</p> <p>5 it.</p> <p>6 Q. Okay. Yeah. I think we're going to ask you to</p> <p>7 make that search and turn it over to counsel.</p> <p>8 MR. FREDERICK: And just for the record,</p> <p>9 I'll object to the request.</p> <p>10 MS. MARANZANO: On what grounds?</p> <p>11 MR. FREDERICK: On the grounds that it's</p> <p>12 privileged and not relevant and not reasonably</p> <p>13 calculated to lead to discovery of relevant evidence.</p> <p>14 MS. MARANZANO: Okay. But I'm asking her</p> <p>15 to turn it over to you. I mean, you can still do a</p> <p>16 privilege review.</p> <p>17 MR. FREDERICK: Fair enough. Fair enough.</p> <p>18 That's fine. I understand.</p> <p>19 MS. MARANZANO: Okay. For the record, our</p> <p>20 position is who the Senator met with on the dates is not</p> <p>21 actually privileged. The substance, we understand</p> <p>22 you're asserting privilege over. But we would ask that,</p> <p>23 at the very least, she'd turn that information over to</p> <p>24 you.</p> <p>25 MR. FREDERICK: And we understand.</p>	<p style="text-align: center;">59</p> <p>1 communications between you and the Senator or you and</p> <p>2 the Senator and the legislative staff, state agencies,</p> <p>3 TLC, and constituents. If you can answer without</p> <p>4 revealing privileged matters, you may do so.</p> <p>5 A. Generally, when you pick up a bill from the</p> <p>6 other chamber, you assume most of the work was done in</p> <p>7 the other chamber.</p> <p>8 Q. (By Ms. Maranzano) Did you feel you had any</p> <p>9 obligation to analyze the bill prior to recommending to</p> <p>10 your boss that he take a position on it?</p> <p>11 MR. FREDERICK: I think I'll make the same</p> <p>12 instruction: Don't reveal thoughts, mental impressions,</p> <p>13 or communications that are privileged. But if you can</p> <p>14 answer without doing, so you may answer the question.</p> <p>15 A. I did review the bill prior to making a</p> <p>16 recommendation.</p> <p>17 Q. (By Ms. Maranzano) And did you feel that you</p> <p>18 needed to do anything in addition to reviewing the bill</p> <p>19 prior to making a recommendation to the Senator?</p> <p>20 A. No.</p> <p>21 Q. Were you aware that if this bill had been</p> <p>22 passed, it would have been subject to Section 5 of the</p> <p>23 Voting Rights Act?</p> <p>24 A. Yes.</p> <p>25 Q. And did you believe that includes any</p>
<p style="text-align: center;">58</p> <p>1 MS. MARANZANO: Yeah.</p> <p>2 Q. (By Ms. Maranzano) Did Senator -- yes.</p> <p>3 A. Just so we can be clear, the Senator meets with</p> <p>4 people unexpectedly, and it doesn't make it to his</p> <p>5 calendar.</p> <p>6 Q. Okay.</p> <p>7 A. So there may have been meetings that have took</p> <p>8 place that will not reflected on his calendar.</p> <p>9 Q. Okay. And are there any documents that reflect</p> <p>10 those meetings?</p> <p>11 A. Again, the meetings that just took place</p> <p>12 unexpectedly, no, ma'am.</p> <p>13 Q. Okay. Did you review any studies that would be</p> <p>14 related to HB 218?</p> <p>15 A. No.</p> <p>16 Q. Did anyone in your office?</p> <p>17 A. No.</p> <p>18 Q. Did the Senator -- did you or the Senator make</p> <p>19 any attempt to determine who among registered voters did</p> <p>20 not possess one of the forms of identification listed in</p> <p>21 HB 218?</p> <p>22 A. No.</p> <p>23 Q. Why not?</p> <p>24 MR. FREDERICK: Object to the extent it</p> <p>25 calls for thoughts, mental impressions, or</p>	<p style="text-align: center;">60</p> <p>1 obligation to take any additional steps before</p> <p>2 recommending a position to Senator Fraser?</p> <p>3 A. No.</p> <p>4 Q. Are you aware of whether the House analyzed the</p> <p>5 impact of HB 218?</p> <p>6 A. I'm not aware.</p> <p>7 Q. Do you know whether there was any attempt in</p> <p>8 the House to analyze whether HB 218 would have a</p> <p>9 disproportionate impact on minority voters?</p> <p>10 A. I'm not aware.</p> <p>11 Q. Who would know that information?</p> <p>12 A. The House author.</p> <p>13 Q. And that was?</p> <p>14 A. Representative Betty Brown.</p> <p>15 Q. What was the purpose of HB 218?</p> <p>16 MR. FREDERICK: Object on grounds of</p> <p>17 privilege. To the extent the question calls for</p> <p>18 thoughts or mental impressions of you, Senator Fraser,</p> <p>19 or communications that you or the Senator have had with</p> <p>20 other legislators, staff, agencies, TLC, or</p> <p>21 constituents, I instruct you not to answer. But to the</p> <p>22 extent that you are able to identify the purpose of the</p> <p>23 bill without relying on privileged matters, you are free</p> <p>24 to answer the question.</p> <p>25 A. I think the record from the State Affairs</p>

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<p style="text-align: center;">61</p> <p>1 Committee hearing on House Bill 218 will show that the</p> <p>2 Senator said the intent was to stop in-person voter</p> <p>3 fraud.</p> <p>4 Q. (By Ms. Maranzano) And how does this bill stop</p> <p>5 in-person voter fraud?</p> <p>6 MR. FREDERICK: Object to the extent it</p> <p>7 calls for speculation and object to the extent it calls</p> <p>8 for thoughts, mental impressions, or privileged</p> <p>9 communications. But to the extent you can answer</p> <p>10 without relying on privileged matters, you may do so.</p> <p>11 A. What was the question?</p> <p>12 Q. (By Ms. Maranzano) How does HB 218 solve</p> <p>13 in-person -- or help with in-person voter fraud? Is</p> <p>14 that what -- what did you say the purpose of the bill</p> <p>15 is? Why don't you repeat that?</p> <p>16 A. If you look at the record from the State</p> <p>17 Affairs Committee hearing, the Senator said that the</p> <p>18 intent of a voter ID bill was to stop in-person voter</p> <p>19 fraud.</p> <p>20 Q. And so my question is: How does this bill do</p> <p>21 that?</p> <p>22 MR. FREDERICK: Same instruction.</p> <p>23 A. I'll assert privilege.</p> <p>24 Q. (By Ms. Maranzano) Is that the only purpose of</p> <p>25 HB 218?</p>	<p style="text-align: center;">63</p> <p>1 and the bill gets voted out of committee, and Senator</p> <p>2 places the bill on the intent calendar.</p> <p>3 Q. Can I stop for a second.</p> <p>4 A. Uh-huh.</p> <p>5 Q. I'm asking you particularly about HB 218, not</p> <p>6 about a general description.</p> <p>7 A. House Bill 218 was voted out of the House, and</p> <p>8 I can't speak to how it got out of the House. You need</p> <p>9 to go back and talk to Betty Brown about that. House</p> <p>10 Bill 218 showed up in the Senate, was read, Lieutenant</p> <p>11 Governor referred it to the Senate State Affairs</p> <p>12 Committee. The Senate State Affairs Committee had the</p> <p>13 bill. Senator Fraser notified the Senate State Affairs</p> <p>14 Committee that he wanted to sponsor HB 218 and requested</p> <p>15 a hearing. The bill was set for a hearing by the</p> <p>16 Chairman of Senate State Affairs. The bill had a</p> <p>17 hearing. I don't remember if this bill sat in State</p> <p>18 Affairs or if it was voted out the same day it was</p> <p>19 heard. You'd have to look at the record. But the bill</p> <p>20 was voted out of committee.</p> <p>21 And Senator Fraser decided to move forward</p> <p>22 with the bill, and so he notified, via the intent</p> <p>23 calendar notification process, the other senators that</p> <p>24 he wanted to hear the bill, and we had the bill in</p> <p>25 Intent for quite a while.</p>
<p style="text-align: center;">62</p> <p>1 MR. FREDERICK: Same objection and</p> <p>2 instruction. Don't reveal thoughts, mental impressions</p> <p>3 or communications with legislative staff, agencies, TLC</p> <p>4 or constituents. If you are able to answer without</p> <p>5 doing so, you may.</p> <p>6 A. Again, according to the record, if you look at</p> <p>7 what Senator Fraser said in the State Affairs Committee</p> <p>8 hearing, his only intent is to stop in-person voter</p> <p>9 fraud.</p> <p>10 Q. (By Ms. Maranzano) Can you describe to me the</p> <p>11 procedural history of after HB 218 was introduced, what</p> <p>12 happened?</p> <p>13 MR. FREDERICK: I'll object on grounds of</p> <p>14 vagueness, but you can answer if you can.</p> <p>15 A. I cannot --</p> <p>16 Q. (By Ms. Maranzano) I'm looking for a general</p> <p>17 summary of what happened with the bill.</p> <p>18 A. I mean, the House process is the House</p> <p>19 process. The bill gets filed, gets sent to committee,</p> <p>20 gets voted out of committee, it goes to calendars, goes</p> <p>21 the Floor, gets passed. In the Senate, it gets -- comes</p> <p>22 to over to the Senate, then just like every bill,</p> <p>23 Lieutenant Governor reviews it, refers it to a</p> <p>24 committee, committee chairman decides to give it a</p> <p>25 hearing or not, and the bill has a hearing in committee,</p>	<p style="text-align: center;">64</p> <p>1 This particular bill, we tried to move one</p> <p>2 day, when we thought we had the necessary votes, and we</p> <p>3 were not successful, and the bill died.</p> <p>4 Q. Okay. So I'm going to ask you a couple of</p> <p>5 questions about that process as you've described it.</p> <p>6 I believe that you testified that the</p> <p>7 Lieutenant Governor reviews a bill, after it gets voted</p> <p>8 out of the House, and then refers it to committee?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. Does every bill that gets voted out of the</p> <p>11 House get referred to some Senate committee?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. And does the Lieutenant Governor solely -- is</p> <p>14 that decision of which committee to refer it to solely</p> <p>15 that of the Lieutenant Governor's?</p> <p>16 A. Based on the current Senate rules, yes.</p> <p>17 Q. And you mean the 2011 rules?</p> <p>18 A. 2007, but even now in 2011, yes, ma'am.</p> <p>19 Q. Okay. And you said that the Senator, Senator</p> <p>20 Fraser notified the committee on State Affairs that he</p> <p>21 wanted to sponsor this bill?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. Why did he do that?</p> <p>24 MR. FREDERICK: Well, object to the extent</p> <p>25 it calls for the Senator's thoughts, mental impressions,</p>

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<p style="text-align: center;">65</p> <p>1 or any communications that you had with him, and I will</p> <p>2 instruct you not to answer.</p> <p>3 A. I'll assert privilege.</p> <p>4 MR. FREDERICK: Okay.</p> <p>5 Jennifer, sometime soon, if we could take</p> <p>6 a quick break.</p> <p>7 MS. MARANZANO: Yeah, just give me a</p> <p>8 couple of minutes.</p> <p>9 MR. FREDERICK: Sure. Sure.</p> <p>10 Q. (By Ms. Maranzano) And you said the committee</p> <p>11 held hearings on HB 218? The Committee on State Affairs</p> <p>12 held hearings on HB 218?</p> <p>13 A. Held a hearing. I don't think they had</p> <p>14 multiple. I think they had one.</p> <p>15 Q. Who invited the witnesses to testify at that</p> <p>16 committee hearing?</p> <p>17 MR. FREDERICK: I'm going to object to</p> <p>18 that, and to the extent it calls for communications that</p> <p>19 any legislator had or that you or Senator Fraser had</p> <p>20 with legislators, staff, agencies, TLC, constituents, or</p> <p>21 potential witnesses, I'll instruct you not to answer.</p> <p>22 To the extent you can answer without revealing the</p> <p>23 substance of conversations, you can do so.</p> <p>24 A. I don't remember that there was an invited</p> <p>25 panel. It was just the process of laying out a bill by</p>	<p style="text-align: center;">67</p> <p>1 Q. What were those concerns?</p> <p>2 A. I cannot -- I cannot speak to what they</p> <p>3 actually said.</p> <p>4 Q. Did anybody raise any concerns about the impact</p> <p>5 HB 218 might have on minority voters?</p> <p>6 MR. FREDERICK: Well, object and instruct</p> <p>7 you not answer to the extent that the question calls for</p> <p>8 communications that you had or Senator Fraser had with</p> <p>9 legislators or legislative staff, agencies, TLC, or</p> <p>10 constituents. But to the extent you can answer without</p> <p>11 revealing.</p> <p>12 A. I mean, the record is there. The hearing was</p> <p>13 videotaped. I think that you could watch it. I don't</p> <p>14 remember specifically.</p> <p>15 Q. (By Ms. Maranzano) Okay. Did the bill change</p> <p>16 at all in committee?</p> <p>17 A. I don't think so, but -- yeah, I don't think</p> <p>18 so. I don't remember. I mean, we might have made minor</p> <p>19 tweaks, but I don't think so.</p> <p>20 Q. Okay.</p> <p>21 MS. MARANZANO: Let's take a five-minute</p> <p>22 break.</p> <p>23 (Recess from 11:11 a.m. to 11:32 a.m.)</p> <p>24 Q. (By Ms. Maranzano) Ms. McCoy, before the break,</p> <p>25 we were talking about HB 218. Who brought HB 218 to the</p>
<p style="text-align: center;">66</p> <p>1 the Senator and then the public testifying.</p> <p>2 I earlier said that I think I talked to</p> <p>3 the Republican Party of Texas about coming and</p> <p>4 testifying, so I may have called a few people that I</p> <p>5 thought would be helpful to the passage of the bill</p> <p>6 besides the Republican Party of Texas. I'm not sure.</p> <p>7 And then the one constituent that we talked to quite a</p> <p>8 bit about this bill. Other than that, I don't think</p> <p>9 there was invited to testimony.</p> <p>10 Q. (By Ms. Maranzano) So the one constituent was</p> <p>11 Skipper Wallace?</p> <p>12 A. Yes.</p> <p>13 Q. And are you saying that you may have invited</p> <p>14 him to testify as well?</p> <p>15 A. I think I didn't invite him to testify. I</p> <p>16 think I was more making sure he knew that the bill had</p> <p>17 been scheduled for hearing.</p> <p>18 Q. Do you remember about how many members of the</p> <p>19 public testified at that hearing?</p> <p>20 A. I do not.</p> <p>21 Q. Can you approximate?</p> <p>22 A. I cannot. It's in the record, however.</p> <p>23 Q. Okay. Did anybody raise any concerns about 218</p> <p>24 during this committee hearing?</p> <p>25 A. My recollection is yes.</p>	<p style="text-align: center;">68</p> <p>1 Floor of the Senate?</p> <p>2 A. Senator Fraser.</p> <p>3 Q. Did anyone ask the Senator to bring it to the</p> <p>4 Floor?</p> <p>5 MR. FREDERICK: Object to the extent that</p> <p>6 calls for communications with other legislative staff in</p> <p>7 this case the legislators or staff members that's not on</p> <p>8 the public record, I will instruct you not to answer.</p> <p>9 If you can answer without revealing that, you may</p> <p>10 answer.</p> <p>11 A. I'll assert privilege.</p> <p>12 Q. (By Ms. Maranzano) Why was Senator Fraser</p> <p>13 playing a leadership role in HB 218?</p> <p>14 MR. FREDERICK: I'll object to the extent</p> <p>15 that calls for thoughts or mental impressions of Senator</p> <p>16 Fraser about HB 218 or communications with other</p> <p>17 legislators, staff, or state agencies. If you can</p> <p>18 answer without revealing subjective mental impressions</p> <p>19 or you may do so.</p> <p>20 A. I'll assert privilege.</p> <p>21 Q. (By Ms. Maranzano) When HB 218 was brought at</p> <p>22 the time Floor of the Senate, what was your role?</p> <p>23 A. My role with House Bill 218 at that point was</p> <p>24 to help the Senator with his talking points, and that's</p> <p>25 it.</p>

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<p style="text-align: center;">69</p> <p>1 Q. Did you draft his talking points?</p> <p>2 A. Yes.</p> <p>3 Q. Did you save those talking points?</p> <p>4 A. Yes.</p> <p>5 Q. Do you still have them?</p> <p>6 A. Yes.</p> <p>7 Q. Were those turned over to your counsel?</p> <p>8 A. Yes.</p> <p>9 Q. Did you do any research prior to drafting those</p> <p>10 talking points?</p> <p>11 A. I read the bill book that Representative Brown</p> <p>12 provided to us.</p> <p>13 Q. And what does the bill book include?</p> <p>14 A. I don't remember what the bill book included</p> <p>15 specifically. Typically, a bill book has copies of the</p> <p>16 legislation, copies of the bill analysis, copies of the</p> <p>17 fiscal note, and occasionally, supporting documents.</p> <p>18 This bill book had all of those things. I do not</p> <p>19 remember what those supporting documents were.</p> <p>20 Q. Did you do any additional research other than</p> <p>21 read the bill book?</p> <p>22 A. No.</p> <p>23 Q. Why not?</p> <p>24 MR. FREDERICK: I'll object. I believe</p> <p>25 that question calls for your mental impressions about</p>	<p style="text-align: center;">71</p> <p>1 218?</p> <p>2 MR. FREDERICK: I'll object to the extent</p> <p>3 it calls for thoughts or mental impressions of any</p> <p>4 legislators or staff of pending legislation or</p> <p>5 communications with other legislators of Senator Fraser</p> <p>6 or staff. But if you can answer without revealing</p> <p>7 privileged matters, you may do so.</p> <p>8 A. After the bill moved, Senator Uresti voted no.</p> <p>9 Q. Can you --</p> <p>10 A. So I did not know how he was going to vote</p> <p>11 prior to the bill moving. After he voted, he voted</p> <p>12 no. After we voted, he voted no.</p> <p>13 Q. Well, why did you bring the bill to the Floor</p> <p>14 when he was absent?</p> <p>15 MR. FREDERICK: Object to the extent the</p> <p>16 question calls for thoughts and mental impressions about</p> <p>17 pending legislation or communications indications that</p> <p>18 are privileged. I instruct you not to answer. If you</p> <p>19 can answer without revealing privileged matters, you may</p> <p>20 do so.</p> <p>21 A. I'll assert privilege.</p> <p>22 Q. (By Ms. Maranzano) Do you think it's important</p> <p>23 to give every Senator a chance to weigh in on a bill</p> <p>24 like HB 218?</p> <p>25 MR. FREDERICK: I'll object as</p>
<p style="text-align: center;">70</p> <p>1 pending legislation. I'll instruct not to answer.</p> <p>2 Q. (By Ms. Maranzano) Are you going to follow your</p> <p>3 counsel's instruction not to answer the question?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. Okay. When HB 218 was brought to the Floor of</p> <p>6 the Senate, did -- or did HB 218 require the support of</p> <p>7 two-thirds of the senators to bring bill to the Floor</p> <p>8 for a vote?</p> <p>9 A. Yes.</p> <p>10 Q. When Senator Fraser brought HB 218 to the</p> <p>11 Floor, how many senators were present at that time?</p> <p>12 A. I don't recall exactly. Either 29 or 30.</p> <p>13 Q. I believe you testified earlier that the</p> <p>14 Senator brought the bill to the Floor when he -- he</p> <p>15 tried to move this bill on a day when you thought it</p> <p>16 would pass?</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. What did you mean by that?</p> <p>19 A. We knew that a particular Senator was absent.</p> <p>20 Q. Which Senator was absent?</p> <p>21 A. Senator Uresti.</p> <p>22 Q. Why was Senator Uresti absent?</p> <p>23 A. If you look at the record from that day, I</p> <p>24 think he was excused because he was sick.</p> <p>25 Q. Did you know Senator Uresti's position on HB</p>	<p style="text-align: center;">72</p> <p>1 argumentative, but you may answer if you can.</p> <p>2 Q. (By Ms. Maranzano) Are you able to answer that,</p> <p>3 Ms. McCoy?</p> <p>4 A. No.</p> <p>5 Q. No, you're not able to answer or --</p> <p>6 A. I'm sorry.</p> <p>7 Q. -- no, you don't think it's important to --</p> <p>8 A. No, I don't think it's important that every</p> <p>9 Senator vote on every specific piece of legislation,</p> <p>10 including House Bill 218.</p> <p>11 Q. Do you know Senator's Uresti's ethnicity?</p> <p>12 A. Yes.</p> <p>13 Q. What ethnicity is he?</p> <p>14 A. He's Hispanic.</p> <p>15 Q. Do you know anything about the district that he</p> <p>16 represents?</p> <p>17 A. Not specifically.</p> <p>18 Q. Do you know if he made any comments about</p> <p>19 HB 218 and the impact it would have on his constituents?</p> <p>20 A. I do not know.</p> <p>21 Q. Would that impact your thoughts on whether it</p> <p>22 was important to give him an opportunity to vote on</p> <p>23 HB 218?</p> <p>24 MR. FREDERICK: Objection, calls for</p> <p>25 speculation.</p>

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<p style="text-align: center;">73</p> <p>1 Q. (By Ms. Maranzano) You can ahead and answer.</p> <p>2 A. I'm sorry. You need to ask the question</p> <p>3 again. I don't know what you're asking me.</p> <p>4 Q. I'm asking if you thought that Senator Uresti</p> <p>5 believed that HB 218 would impact his constituents,</p> <p>6 would you think it was important that he be given an</p> <p>7 opportunity to take a vote on that bill?</p> <p>8 MR. FREDERICK: Same objection. You can</p> <p>9 answer.</p> <p>10 A. I think, again, generally, every bill impacts</p> <p>11 every Senators' constituents. And generally, Senators</p> <p>12 should on the Floor to vote, but not -- we don't have a</p> <p>13 31 -- we don't always 31 Senators on the Floor to vote.</p> <p>14 And so with Senator Uresti, I can't speak to Senator</p> <p>15 Uresti's constituents what they think is important or</p> <p>16 not important for him to vote on.</p> <p>17 Q. (By Ms. Maranzano) But am I understanding you</p> <p>18 correctly that your position is, you don't think every</p> <p>19 Senator needs to vote on every bill, including HB 218?</p> <p>20 A. That's correct.</p> <p>21 Q. And did you say that the bill -- well, after</p> <p>22 the first vote was taken on HB 218, was there</p> <p>23 verification of the vote that was taken?</p> <p>24 A. I think that's what it's called, yes. I think</p> <p>25 of we -- they voted again. I don't know if it was a</p>	<p style="text-align: center;">75</p> <p>1 the members present.</p> <p>2 Q. What do you think the purpose of that</p> <p>3 requirement is?</p> <p>4 A. I can't speak to the purpose. It's just the</p> <p>5 way the Senate has done business.</p> <p>6 Q. But as somebody who has worked there since</p> <p>7 1992, do you have any thoughts on what you think the</p> <p>8 purpose of that is?</p> <p>9 A. General consensus on bills.</p> <p>10 Q. Are most bills brought to the Floor by getting</p> <p>11 two-thirds majority support?</p> <p>12 A. Yes.</p> <p>13 Q. After HB 218 failed to get two-thirds majority</p> <p>14 support, did anything further happen to that bill?</p> <p>15 A. No.</p> <p>16 Q. Who were the main supporters of HB 218?</p> <p>17 MR. FREDERICK: I'll object to the extent</p> <p>18 that it calls for communications that you or Senator</p> <p>19 Fraser might have had with legislators, staff, agencies,</p> <p>20 or constituents or thoughts and mental impressions. But</p> <p>21 if you can answer without that, I think you're free to</p> <p>22 answer.</p> <p>23 A. Well, I think the record will show, if you look</p> <p>24 at the vote in the Senate, you're talking about who the</p> <p>25 supporters were in the Senate; Republican Senators</p>
<p style="text-align: center;">74</p> <p>1 verification or if they just chose to vote again. I'm</p> <p>2 not really sure how that worked. But there was a second</p> <p>3 vote.</p> <p>4 Q. And did you say Senator Uresti arrived for that</p> <p>5 vote?</p> <p>6 A. He did.</p> <p>7 Q. And what happened to HB 218?</p> <p>8 A. It failed to suspend the regular order of</p> <p>9 business rule.</p> <p>10 Q. Was that because it did not have a two-thirds</p> <p>11 majority --</p> <p>12 A. That's correct.</p> <p>13 Q. Two-thirds majority support?</p> <p>14 A. That's correct.</p> <p>15 Q. What is the purpose of the two-thirds rule?</p> <p>16 A. There is not a rule that's the two-thirds</p> <p>17 rule. The rule is the regular order of business rule,</p> <p>18 and that rule says that as a bill comes out of the</p> <p>19 calendar, it's placed on the regular order of business,</p> <p>20 and you're supposed to vote in that order. So there is</p> <p>21 no two-thirds rule.</p> <p>22 Q. So to vote on a bill out of order, does that</p> <p>23 require two-thirds majority support?</p> <p>24 A. You have to suspend the regular order of</p> <p>25 business rule, and that requires a two-thirds vote of</p>	<p style="text-align: center;">76</p> <p>1 supported it, Democrat Senators did not.</p> <p>2 Q. (By Ms. Maranzano) How about, were there any --</p> <p>3 would you consider anybody from the Executive Branch to</p> <p>4 be a main supporter of HB 218?</p> <p>5 MR. FREDERICK: Same objection. To the</p> <p>6 extent it calls for communications between you or</p> <p>7 Senator Fraser and a member the Executive Branch or</p> <p>8 their thoughts or mental impressions, I instruct you not</p> <p>9 to answer. If you can answer without revealing that,</p> <p>10 you can answer.</p> <p>11 A. I'll assert purchase.</p> <p>12 Q. (By Ms. Maranzano) Was there any outside groups</p> <p>13 or advocacy groups that you would consider to be in the</p> <p>14 group of the main supporters of HB 218?</p> <p>15 MR. FREDERICK: Again, I'll instruct you</p> <p>16 not to answer and object on privilege, to the extent</p> <p>17 that it would require you to reveal the substance of any</p> <p>18 conversation. But to the extent it's just seeking</p> <p>19 identity, then you may identify.</p> <p>20 A. I honestly don't remember who testified for and</p> <p>21 against the bill. Republican Party, I think, was for</p> <p>22 it.</p> <p>23 Q. (By Ms. Maranzano) And did you say -- you said</p> <p>24 most of the legislators who supported the bill were in</p> <p>25 the Republican Party?</p>

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<p style="text-align: center;">77</p> <p>1 A. Yes, ma'am.</p> <p>2 Q. Do you believe any part of the purpose of</p> <p>3 HB 218 was partisan?</p> <p>4 MR. FREDERICK: I'll object and assert</p> <p>5 privilege to the extent that the question seeks thoughts</p> <p>6 or mental impressions about pending legislation or the</p> <p>7 substance of communications with legislators, staff,</p> <p>8 agencies, TLC, or constituents. But, I mean, to the</p> <p>9 extent that you can identify -- to the extent you're</p> <p>10 able to identify a purpose without relying on those</p> <p>11 matters, you're free to answer the question.</p> <p>12 A. I think the purpose of the bill, from Senator</p> <p>13 Fraser and our office's perspective, was to stop</p> <p>14 in-person voter fraud. It wasn't partisan.</p> <p>15 Q. (By Ms. Maranzano) Who were the main opponents</p> <p>16 to HB 218?</p> <p>17 A. I don't remember.</p> <p>18 Q. You don't remember any of them?</p> <p>19 A. I don't.</p> <p>20 Q. Do you believe that HB 218 would have had a</p> <p>21 discriminatory impact on minority voters?</p> <p>22 MR. FREDERICK: I'll object to the extent</p> <p>23 it calls for your thoughts and mental impressions about</p> <p>24 pending legislation and communications, and based on</p> <p>25 that, I will instruct you not to answer the question.</p>	<p style="text-align: center;">79</p> <p>1 communications relating to specific legislation. To the</p> <p>2 extent you can answer without relying on privileged</p> <p>3 matters, you may do so.</p> <p>4 A. I assert privilege.</p> <p>5 Q. (By Ms. Maranzano) Was Senator Fraser involved</p> <p>6 in a photo identification bill in 2009?</p> <p>7 A. Yes, ma'am.</p> <p>8 (Exhibit 29 marked for identification.)</p> <p>9 Q. (By Ms. Maranzano) Ms. McCoy, I'm showing you</p> <p>10 what has been marked as Deposition Exhibit 29. Do you</p> <p>11 recognize this?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. And what is this?</p> <p>14 A. I think it's the filed version of Senate Bill</p> <p>15 362.</p> <p>16 Q. Can you take a look at it and tell me what</p> <p>17 forms of identification would be allowed in this bill?</p> <p>18 A. Section 10 of the bill shows six different</p> <p>19 forms of photo ID that would be acceptable, including a</p> <p>20 driver's license or ID card, a military card, a citizen</p> <p>21 certificate that has a photograph, a passport, a</p> <p>22 concealed handgun license, and a valid ID card from a</p> <p>23 federal or local government, or two forms of nonphoto</p> <p>24 ID, including registration cards, utility bills,</p> <p>25 official mail, birth certificates, marriage license or</p>
<p style="text-align: center;">78</p> <p>1 A. I'll assert privilege.</p> <p>2 Q. (By Ms. Maranzano) Are you familiar with</p> <p>3 Section 2 of the Voting Rights Act?</p> <p>4 A. No.</p> <p>5 Q. Not at all?</p> <p>6 A. Not at all.</p> <p>7 Q. Would it surprise you if I told you that</p> <p>8 Section 2 includes an antidiscrimination provision that</p> <p>9 applies to all 50 states?</p> <p>10 A. I don't know anything about Section 2, so...</p> <p>11 Q. So you've never made any effort to ensure that</p> <p>12 legislation you worked on complied with Section 2 of the</p> <p>13 Voting Rights Act?</p> <p>14 MR. FREDERICK: Objection, argumentative.</p> <p>15 Objection, assumes facts not in evidence.</p> <p>16 A. I don't know anything about Section 2.</p> <p>17 Q. (By Ms. Maranzano) Do you think a federal law</p> <p>18 is required to make sure a piece of legislation doesn't</p> <p>19 discriminate against minorities?</p> <p>20 A. No.</p> <p>21 Q. Do you make any attempts to make sure that</p> <p>22 legislation you work on doesn't discriminate against</p> <p>23 minorities?</p> <p>24 MR. FREDERICK: I object, to the extent it</p> <p>25 calls for you to reveal thoughts, mental impressions, or</p>	<p style="text-align: center;">80</p> <p>1 divorce decrees, court records.</p> <p>2 Q. Is -- I think I didn't ask you this question.</p> <p>3 Is this the bill that Senator Fraser introduced in 2009?</p> <p>4 A. I think I said it was the filed version, yes,</p> <p>5 ma'am.</p> <p>6 Q. Okay.</p> <p>7 A. I don't know that to be exact, but based on the</p> <p>8 title of the bill, it looks like it's the filed version.</p> <p>9 Q. Okay. And this bill would allow for a voter to</p> <p>10 show one form of photo identification or two forms of</p> <p>11 nonphoto identification?</p> <p>12 A. That's correct.</p> <p>13 Q. I believe you testified earlier that two forms</p> <p>14 of nonphoto identification would verify a voter's</p> <p>15 identity in both instances?</p> <p>16 A. Uh-huh.</p> <p>17 Q. What are the instances --</p> <p>18 MR. DUNN: Was that a yes?</p> <p>19 THE WITNESS: Yes.</p> <p>20 Q. (By Ms. Maranzano) What are the instances that</p> <p>21 a nonphoto ID would not verify a voter's identity?</p> <p>22 MR. FREDERICK: Objection to the extent it</p> <p>23 calls for speculation, but you can answer.</p> <p>24 A. Again, if someone is trying to cheat the</p> <p>25 system, they can -- nonphoto IDs can be reproduced and</p>

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<p style="text-align: center;">81</p> <p>1 manipulated.</p> <p>2 Q. (By Ms. Maranzano) Can photo IDs be reproduced</p> <p>3 and manipulated?</p> <p>4 MR. FREDERICK: Objection to the extent it</p> <p>5 calls for speculation, but you can answer if you know</p> <p>6 A. Some can.</p> <p>7 Q. (By Ms. Maranzano) Can you tell me what your</p> <p>8 involvement was in the development of SB 362?</p> <p>9 A. Senate Bill 362 as filed was the legislation</p> <p>10 that the House sent to us from House Bill 218. So</p> <p>11 Exhibit 28 is not the bill the Senate was debating,</p> <p>12 because this is the filed version. So after the House</p> <p>13 manipulated it a while, this is the language they sent</p> <p>14 us. So we refiled the bill that had passed the House</p> <p>15 from 2007. We refiled it in 2009.</p> <p>16 Q. Why did Senator Fraser decide to file the bill</p> <p>17 in the Senate in 2009?</p> <p>18 MR. FREDERICK: Object. That question</p> <p>19 seeks thoughts or mental impressions of Senator Fraser.</p> <p>20 I'll instruct you not to answer on the basis of</p> <p>21 privilege.</p> <p>22 A. I'll assert privilege.</p> <p>23 Q. (By Ms. Maranzano) So you filed -- I'm sorry.</p> <p>24 Senator Fraser filed a bill that was -- that had been</p> <p>25 previously filed in the House; is that correct? And SB</p>	<p style="text-align: center;">83</p> <p>1 research reports, and compiled that information for the</p> <p>2 Senator.</p> <p>3 Q. (By Ms. Maranzano) What poll data did you</p> <p>4 gather?</p> <p>5 MR. FREDERICK: Object. That calls for</p> <p>6 you to reveal your thoughts or mental impressions. I</p> <p>7 will instruct you not to answer on the basis of</p> <p>8 privilege.</p> <p>9 Q. (By Ms. Maranzano) Are you following your</p> <p>10 counsel's instruction not to answer that question?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. What research reports did you gather?</p> <p>13 MR. FREDERICK: Object on the basis that</p> <p>14 calls for thoughts or mental impressions. I'm going to</p> <p>15 instruct you not to answer on the basis of privilege.</p> <p>16 A. I'll assert privilege, yes, ma'am.</p> <p>17 Q. (By Ms. Maranzano) All right. Why did you</p> <p>18 decide to look at poll data when you were doing research</p> <p>19 on this question?</p> <p>20 MR. FREDERICK: I object. That answer</p> <p>21 calls for your thoughts or mental impression on pending</p> <p>22 legislation. I instruct you not to answer on the basis</p> <p>23 of privilege.</p> <p>24 A. I'll assert privilege.</p> <p>25 Q. (By Ms. Maranzano) Did the Senator cite any of</p>
<p style="text-align: center;">82</p> <p>1 362 was a version of a previously-filed bill in the</p> <p>2 House?</p> <p>3 A. Senate Bill 362 was the version of House Bill</p> <p>4 218 that the House sent us, the engrossed version of</p> <p>5 House Bill 218 from 2007.</p> <p>6 Q. Okay. And you did not make any changes to the</p> <p>7 bill prior to filing SB 362?</p> <p>8 A. I think Senate Bill 362, as filed, was exactly</p> <p>9 the language that was House Bill 218 as it came out of</p> <p>10 the Senate committee on State Affairs.</p> <p>11 Q. Did you do any -- we've talked a little bit</p> <p>12 about what you did in relation to House Bill 218. Did</p> <p>13 you take any additional steps, in terms of developing or</p> <p>14 working on SB 362, with regards to any research you did</p> <p>15 any studies you looked at?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. And what did you do?</p> <p>18 MR. FREDERICK: I'll object to the extent</p> <p>19 this calls for you to reveal thoughts or mental</p> <p>20 impressions, any communications with legislators, staff,</p> <p>21 agencies, TLC, or constituents, I instruct you not to</p> <p>22 reveal the substance of those communications or your</p> <p>23 thoughts or mental impressions. If you can answer</p> <p>24 without revealing those matters, you may do so.</p> <p>25 A. I gathered more poll data. I gathered more</p>	<p style="text-align: center;">84</p> <p>1 the poll data or reports that you had gathered on the</p> <p>2 public record?</p> <p>3 A. Yes.</p> <p>4 Q. Which polls or reports did he cite?</p> <p>5 A. In 2009, he cited Rasmussen Poll on the</p> <p>6 record. He cited the Carter-Baker Commission report on</p> <p>7 the record. And I don't know that I can recall more</p> <p>8 than those two on the record.</p> <p>9 Q. Were there any polls that you had found in</p> <p>10 doing your research that the Senator did not cite on the</p> <p>11 public record?</p> <p>12 MR. FREDERICK: I object on the basis that</p> <p>13 that calls for your thoughts or mental impression,</p> <p>14 communications. I instruct you not to answer on the</p> <p>15 basis of privilege, except to the extent that you can</p> <p>16 answer yes or no if there are such reports.</p> <p>17 A. No.</p> <p>18 Q. (By Ms. Maranzano) Were there any studies that</p> <p>19 you had found or other research you had found that the</p> <p>20 Senator did not cite on the public record?</p> <p>21 MR. FREDERICK: Same objection, same</p> <p>22 instruction. You may answer yes or no.</p> <p>23 A. Yes.</p> <p>24 Q. (By Ms. Maranzano) And what were those?</p> <p>25 MR. FREDERICK: I object on the basis that</p>

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<p style="text-align: center;">85</p> <p>1 seeks thoughts or mental impressions and communications</p> <p>2 that are privileged. I instruct you not to answer on</p> <p>3 the basis of privilege.</p> <p>4 A. But I can answer because I don't remember the</p> <p>5 names of those reports.</p> <p>6 Q. (By Ms. Maranzano) Do you remember how many</p> <p>7 there were?</p> <p>8 A. Four or five. Three, four, five, something</p> <p>9 like that.</p> <p>10 Q. Do you remember what they were about?</p> <p>11 A. Voter identification.</p> <p>12 Q. Anything more specific than voter</p> <p>13 identification?</p> <p>14 MR. FREDERICK: I'll object. That seeks</p> <p>15 thoughts and mental impressions, communications. I</p> <p>16 object and instruct you not to answer on the basis of</p> <p>17 privilege.</p> <p>18 A. I'll assert privilege.</p> <p>19 Q. (By Ms. Maranzano) When you were working on SB</p> <p>20 362, did you study any other state's identification</p> <p>21 requirements?</p> <p>22 MR. FREDERICK: I'll object to the extent</p> <p>23 that calls for your thoughts or mental impressions or</p> <p>24 communications with legislators, staff, agencies, TLC,</p> <p>25 or constituents, instruct you not to answer on the basis</p>	<p style="text-align: center;">87</p> <p>1 months pregnant with twins when we were debating Senate</p> <p>2 Bill 362, so I don't remember a lot.</p> <p>3 I probably spoke to a dozen Senators about</p> <p>4 Senate Bill 362. And as the bill moved through the</p> <p>5 Senate, Senator Williams, Senator Ellis, Senator West,</p> <p>6 Senator Duncan, Senator Van de Putte, Senator Whitmire.</p> <p>7 2009, Senator Huffman, was she in the Senate? Senator</p> <p>8 Harris. Generally, I mean, a lot of senators I --</p> <p>9 Q. (By Ms. Maranzano) Uh-huh. So is it fair to</p> <p>10 say that you spoke to senators who -- those senators who</p> <p>11 voted for and against SB 362?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. Did you speak to the Lieutenant Governor's</p> <p>14 Office about SB 362?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. How many times?</p> <p>17 A. I mean, I probably spoke to them every day as</p> <p>18 the bill was being scheduled for hearing and being</p> <p>19 heard, and then probably not at all until the House was</p> <p>20 done with it, and it was moving back over, and then</p> <p>21 again every day until we voted on it again.</p> <p>22 Q. Can you tell me, generally, what those</p> <p>23 conversations, the nature of those conversations?</p> <p>24 MR. FREDERICK: I'll object to the extent</p> <p>25 it asks you to reveal the substance or content of those</p>
<p style="text-align: center;">86</p> <p>1 of privilege. However, if you can answer without</p> <p>2 revealing privileged matters, you may do so.</p> <p>3 A. On the record, Senator Fraser said that he had</p> <p>4 looked at how Indiana was working.</p> <p>5 Q. (By Ms. Maranzano) Did you look at any</p> <p>6 information or study information from any interest</p> <p>7 groups in relation to SB 362?</p> <p>8 MR. FREDERICK: I'll make the same</p> <p>9 objection that this question calls for thoughts or</p> <p>10 mental impressions about pending legislation and your</p> <p>11 investigative process. I instruct you not to answer on</p> <p>12 the basis of privilege, except to the extent you can</p> <p>13 answer without revealing privileged matters, you may do</p> <p>14 so.</p> <p>15 A. I don't remember.</p> <p>16 Q. (By Ms. Maranzano) Did you have any</p> <p>17 communications about SB 362 with other legislators?</p> <p>18 A. Yes.</p> <p>19 Q. Which ones?</p> <p>20 MR. FREDERICK: I'll just issue a</p> <p>21 cautionary instruction. I don't think that this</p> <p>22 question is seeking the content of those communications,</p> <p>23 so I would instruct you not to reveal the content, but</p> <p>24 you may identify people with whom you spoke.</p> <p>25 A. Can we just on the record say that I was four</p>	<p style="text-align: center;">88</p> <p>1 conversations, which are subject to privilege. However,</p> <p>2 to the extent you're able to identify a general subject</p> <p>3 matter, you may answer.</p> <p>4 A. We generally spoke about the legislative</p> <p>5 process and we generally spoke about the bill itself.</p> <p>6 Q. (By Ms. Maranzano) The legislative process, do</p> <p>7 you mean how the bill would get passed?</p> <p>8 MR. FREDERICK: I'll object to the extent</p> <p>9 that seeks the content of privileged communications and</p> <p>10 instruct you not to answer.</p> <p>11 A. I'll assert privilege.</p> <p>12 Q. (By Ms. Maranzano) Were those conversations by</p> <p>13 phone or in person?</p> <p>14 A. I spoke to Lieutenant Governor's Office. I</p> <p>15 generally spoke to them in person.</p> <p>16 Q. Is there anybody from the Lieutenant Governor's</p> <p>17 Office who you spoke to who you haven't already</p> <p>18 testified about?</p> <p>19 A. In 2009?</p> <p>20 Q. Uh-huh.</p> <p>21 A. I would add Bryan Hebert to the list.</p> <p>22 Q. And who is Bryan Hebert?</p> <p>23 A. He was Lieutenant Governor's primary staff</p> <p>24 person for State Affairs in 2009.</p> <p>25 Q. Do you know when Bryan Hebert started working</p>